

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 613 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KANJIBHAI H PATEL

Versus

NITINKUMAR JAYSUKHLAL

Appearance:

None present for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/12/98

ORAL JUDGEMENT

#. This is defendant's revision application under section 115 of the Code of Civil Procedure, 1908 against the order of learned 3rd Joint Civil Judge (S.D.), Rajkot, dated 5.5.90 in Summary Suit No.25 of 1988.

#. Perused the Civil Revision Application and the impugned order.

#. The plaintiff-respondent No.1 filed summary suit for

recovery of Rs.14,500/= in the trial Court against defendant No.1-petitioner and defendant No.2-respondent No.2. On the application of defendants for grant of leave to defend, the learned trial Court has granted leave to defend to them on condition of payment of Rs.7,250/=. The defendant No.1-petitioner approached this Court against the said order and that revision application came to be decided by this Court. The said revision application came to be dismissed with clarification that, "...the amount shall be deposited in the trial Court and it will not be necessary to pay the amount to the plaintiff. As and when the amount is deposited in trial Court, the trial Court shall pass order regarding withdrawal of the amount by the plaintiff after hearing the petitioner..." The defendant No.1, after dismissal of the first revision application filed an application before the learned trial Court for directions that the amount deposited by him be kept deposited with it till the final disposal of the suit.

#. The plaintiff-respondent No.1 gave an application on 25th September 1988 praying for directions for payment of the amount to him. Both these applications came to be decided by the learned trial Court on 5.5.90 and the plaintiff-respondent No.1 was granted permission for withdrawal of amount of Rs.7,250/= lying deposit in the Court. Hence this revision application before this Court.

#. This revision application has come up for admission before this Court on 26th November 1990. The same has been admitted and interim relief in terms of para-7(B) has been granted. This Court has further made it clear that the learned trial Court shall proceed further with the suit as expeditiously as possible. This interim relief granted by this Court continues till date. In view of the directions which have been given by this Court in this revision application for expeditious disposal of the suit, there are all possibilities that by now the suit itself would have been disposed of. This hope also fortifies from the fact that the defendant-respondent has not put appearance in this revision application. The learned counsel for the petitioner is also not present and that goes to show that in all eventualities, the suit would have been disposed of. Be that as it may, interim relief in terms of para-7(B) continues for all these years and the suit out of which this civil revision application has arisen is of the year 1988.

#. Interest of justice will be met in case this civil

revision application is disposed of in terms that the learned trial Court may decide the Summary Suit No.25 of 1988 within a period of four months from the date of receipt of writ of this order. Till the suit is decided, interim relief which has been granted by this Court shall continue. It is made clear that in case the suit has already been decided by the learned trial Court, this order needs not be complied with and the interim relief which is ordered to be continued by this Court shall stand automatically vacated without reference to the Court. The revision application and Rule stands disposed of in aforesaid terms with no order as to costs.

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(sunil)